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IN THE SUPREME COURT OF FLORIDA

CASE NO. 94,688

KATHRYN P. HAYES,

Petitioner,

v.

STATE OF FLORIDA,

Respondent.

****

AN APPEAL FROM THE DISTRICT COURT IN AND FOR
THE FOURTH DISTRICT, STATE OF FLORIDA
Case No.: 97-2014

****

PETITIONER'S INITIAL BRIEF

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CERTIFICATE OF INTERESTED PARTIES

Counsel for the Petitioner, Kathryn Hayes, certifies that the following persons have or may have an interest in the outcome of this case.

Metcalf, Andrew B., Defense Counsel

Carney, James J., Assistant Attorney General

Hawley, Honorable Robert A., Circuit Court Judge

Taylor, Ed, Assistant State Attorney

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PRELIMINARY STATEMENT

Kathryn Hayes was the Defendant below and shall be referred to as "Petitioner." The State of Florida was the Plaintiff below and shall be referred to as "Respondent." References to the original record will be identified by (R)." References to the original transcript will be identified by (T).

STATEMENT OF THE CASE AND FACTS

Petitioner was charged by Information with trafficking in Hydrocodone (Count I) and obtaining a controlled substance by fraud (Count II). (R 18-19) Petitioner filed an amended motion to dismiss Count I pursuant to Florida Rule of Criminal Procedure 3.190(c)(4). (R 32)

At a hearing on the motion to dismiss it was pointed out that there was a conflict among Florida District Courts on whether the trafficking charge was proper where the drug in question was "Lortab, Lorcet" and/or "Vicodin", which contains well below the requisite amounts of Hydrocodone called out in F.S. 893.135(1)(c)1, but is a drug that contains a mixture of Hydrocodone and Acetaminophen. The trial judge dismissed Count I of the Amended Information. The State of Florida appealed.

On appeal the Fourth District reversed the trial judge certifying conflict with the First and Second District Court of Appeals and aligning itself with the Fifth District Court.

The Fifth District Court of Appeals has held that a Defendant can be charged under F.S. 893.135(1)(c)1 when the aggregate weight of the drug or mixture containing Hydrocodone exceeds four grams, regardless of the amount of Hydrocodone actually present in the drug or mixture. See State v. Baxley, 684 So. 2d 831 (Fla. 5th DCA 1996).

However, the First and Second District Courts of Appeal have held that the substance in question (Lortab, Lorcet/Vicodin),

(hereinafter Lortab), is a schedule III drug, rather than a schedule II drug, for the purposes of the trafficking statute because each tablet contains no more than fifteen milligrams of Hydrocodone along with other active ingredients which are not controlled substances. The First District in a decision subsequent to Baxley stated that a Defendant cannot be charged with trafficking illegal drugs in violation of F.S. 893.135(1)(c)1 even when the substance in question is a *mixture* containing Hydrocodone if the *mixture* containing containing the Hydrocodone "falls within the parameters" set forth in Schedule III. State v. Holland, 689 So. 2d 1268 (Fla. 1st DCA 1997). The Court further held that it is the amount of the controlled substance per dosage unit, not the aggregate amount or weight that determines whether section 893.135(1)(c)1 applies.

The trial judge in the case at bar followed the reasoning set forth by the First District Court of Appeals and granted the Petitioner's motion to dismiss. (R 37-38).

SUMMARY OF THE ARGUMENT

The trial court was correct in granting the Motion to Dismiss Count I of the Information, and in its classification of Lortab as a Schedule III drug pursuant to F.S. 893.03(3)(c)4. Although Hydrocodone in its pure form is listed as Schedule II drug in section 893.03(2)(a)1, the trial court was correct in its determination that it is a Schedule III drug pursuant to section 893.03(3)(c)4 because there was "no more than fifteen milligrams of Hydrocodone per dosage unit combined with recognized therapeutic amounts of one or more active ingredients which are not controlled substances." (R 37). The plain language of 893.03(3)(c)4 removes Lortab out from under the umbrella of 893.135(1)(c)1, (trafficking statute). The black and white language of the Trafficking Statute calls out only Schedule I and II as those which are applicable.

THE DECISION OF THE FOURTH DISTRICT COURT OF APPEALS WAS INCORRECT AND SHOULD BE REVERSED

The Supreme Court of Florida is now presented with the question of whether the unlawful possession of approximately forty Lortab tablets constitutes a trafficking offense pursuant to Florida Statute 893.135(1)(c)1. The Fourth and Fifth District Court of Appeals answer this question in the affirmative and the First and Second District Court of Appeals answer in the negative.

Lortab is a trade name prescription pain reliever which contains the narcotic Hydrocodone in combination with Acetaminophen (Tylenol). Hydrocodone or Dihydrocodeinone, "is a compound isomeric with Codeine, and prepared from it by catalytic rearrangement." OSOL, ARTHUR, Ph.D., BLAKISTON'S MEDICAL DICTIONARY (3rd edition, 1973). Essentially, Hydrocodone is a pain-reliever and cough suppressant, similar to Codeine, which is commonly prescribed for the relief of moderate to moderately severe pain. BARNHART EDWARD, R., PHYSICIANS' DESK REFERENCE 1931(45th ed. 1991). Kathyrn Hayes is alleged to have been in possession of 40 tablets of Lortab, approximately one weeks' supply when administered appropriately.

It has been said by the State of Florida that the trial court overlooked a portion of the F.S. 893.135(1)(c)1 when it dismissed Count I of the Information. Seemingly, a more accurate assessment would be that the trial court did not look to the

Trafficking Statute at all because it simply does not apply. Applying the facts at hand, the trial court appropriately held the contraband allegedly in the possession of Kathryn Hays to be a Schedule III drug in accord with Florida Statute 893.03(3)(c)4. Instead of speculating as to the intentions of the Florida State Legislature, the trial court applied the black and white, plain meaning of section 893.03(3)(c)4, which states that Hydrocodone is a Schedule III controlled substance when there exists "not more than 300 milligrams of Hydrocodone per 100 milliliters or not more than 15 milligrams per dosage unit, with recognized therapeutic amounts of one or more active ingredients which are not controlled substances." In this case, the Lortab contained only 7.5 milligrams of Hydrocodone present per dosage unit, well under the 15 milligram cap called out in 893.03(3)(c)4. The other active ingredient which is found in Lortab is Acetaminophen or "Tylenol", which is not a controlled substance. Thus, it goes without contradiction, that Lortab is a Schedule III controlled substance pursuant to 893.03(3)(c)4. This being said, the Trafficking Statute specifically delineates that any person who knowing sells, purchases, manufactures, delivers or is in possession of hydrocodone **"as described in 893.03(1)(b) or (2)(a)"** or 4 grams or more of any mixture containing any such substance, commits a felony of the first degree, to wit: "trafficking in illegal drugs." Hydrocodone, as found in Lortab, is desribed in 893.03(3)(c)4 not in 893.03(1)(b) or (2)(a), thus

the "any mixture" language applies only to Schedule II hydrocodone listed in 893.03(2)(a), not Schedule III hydrocodone found in 893.03(3)(c)4.

BAXLEY vs. HOLLAND

Essentially, the State of Florida, (Respondent) argues that Lortab should be treated as a Schedule II substance. The Respondent suggests that Hydrocodone, an ingredient in Lortab, is, in this instance a Schedule II drug, thus falling under the purview of Florida Statute 893.135(1)(c)1. The Respondent incorrectly relies on the portion of section 893.135(1)(c)1 which states,

> "Any person who knowingly sells, manufacturers, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 4 grams or more of…Hydrocodone… as described in **893.03(1)(b) or (2)(a)**, or 4 grams or more of any mixture containing any such substance… commits a felony of the first degree… 'trafficking in illegal drugs.'"

The Respondent cites State v. Baxley, 684 So. 2d 831 (Fla. 5th DCA 1996)., which interprets the language of 893.135(1)(c)1 to wit: **"4 grams or more of any mixture containing any such substance"** to mean that Schedule III drugs containing Hydrocodone become Schedule II substances if the **mixture** is over 4 grams. Ironically, the Court in Baxley prefaced this conclusion by stating, "…. we believe that a proper interpretation of section 893.03(c)4 makes it clear that *only a small amount* of Hydrocodone is a Schedule III substance." Baxley at 832. On one hand, the Court is stating that only a small amount of Hydrocodone is a

Schedule III substance, but on the other hand the Court has held that a forty tablet prescription containing a total of .3 grams of Hydrocodone and Acetaminophen is a Schedule II drug for the purposes of 893.135(1)(c)1. The logical follow-up question is, "If .3 grams is not a small amount of Hydrocodone then what is?" The Baxley holding is completely illogical in that someone in possession of 40 Lortab tablets, which contains an aggregate total of .3 grams of Hydrocodone mixed with Acetaminophen, a non-controlled substance, can be prosecuted for trafficking in illegal drugs, whereas someone in possession of 4,000 tablets made up of 3.999 grams of pure Hydrocodone, so long as it is not part of a **mixture**, can not be prosecuted under the Trafficking Statute. This is the outrageous result of a misinterpretation of section 893.135(1)(c)1. In essence, the Baxley Court suggests that anything less than four grams of pure Hydrocodone can not be prosecuted for trafficking. However, a **mixture** containing .0001 grams of Hydrocodone is enough, when it exceeds 4 grams, even if it is part of a listed Schedule III substance. This ridiculous interpretation makes the weight of the carrier or non-controlled, mixed component more important than the weight of the actual controlled drug that the law was drafted to combat.

A more sensible holding was reached in State v. Holland, 689 So. 2d 1268 (Fla 1st DCA 1997). The First District Court of Appeals in this more recent decision took the common sense, black-letter law approach. The Holland Court held that Lortab

was a mixture containing Hydrocodone, a Schedule III drug as described in 893.03(3)(c)4, not a Schedule II mixture **as described in 893.03(1)(b) or (2)(a).** Holland at 1270. Again, this is important because section 893.135(1)(c)1 refers only to mixtures containing 893.03(1)(b) or (2)(a) substances **not** 893.03(3)(c) substances. The Court stated, "Reading sections 893.135(1)(c)1 and 893.03(3)(c)4 in concert, it is clear to us that, if a mixture containing the controlled substance falls within the parameters set forth in Schedule III, the mount of the controlled substance per dosage unit, not the aggregate amount or weight, determines whether the defendant may be charged with violating section 893.135(1)(c)1, Florida Statutes." Id. At 1270. This holding is based on the "black and white" language called out in 893.135(1)(c)1. This argument was the basis of the trial court's holding in the present case. The trial court recognized that the prescription drug Lortab contained only 7.5 milligrams of Hydrocodone, per dosage unit, along with 500 milligrams of Acetaminophen, making it a Schedule III drug, exempt from the trafficking statute. (R-38)

At the hearing on the Respondent's Motion to Dismiss the trafficking charge in the case at bar, the Assistant State Attorney stipulated to the fact that Lortab is a Schedule III drug and further offered that Robert Parsons, a state chemist, would concur. (T-8) The trial court in the present case was also presented with testimony from a certified pharmacist. The Baxley

decision did not address any such testimony, thus it is presumed that the Fifth District Court of Appeals did not have the benefit of hearing the opinion of a pharmacist.

In the case at bar, the trial court heard testimony from Susan Seden, a licensed pharmacist by the State of Florida. Mrs. Seden testified under oath that Lortab is indeed made up of 7.5 milligrams of Hydrocodone and 500 milligrams of Acetaminophen. (T-7) She further testified, "In combination the product is a Schedule III. But the Hydrocodone, if it were sold separately, is a Schedule II. …there is no manufacturer making Hydrocodone all by itself." (T-8) This testimony and the language of 893.03(3)(c)4 makes it clear that Lortab is a drug made up of a mixture containing Hydrocodone that is classified, pursuant to Florida Statute 893.03(3)(c)4 as a Schedule III controlled substance.

"ANY MIXTURE CONTAINING ANY SUCH SUBSTANCE"

The Respondent will no doubt make the argument that although Lortab tablets might be exempted from the substances listed in s. 893.03(2)(a), because they are a "mixture" containing Hydrocodone and other substances, they are "re-included" in the trafficking statute by the language, "any mixture containing any such substance" listed in s. 893.03(2)(a). The Respondent will argue that because Hydrocodone is also listed as Schedule II drug in 893.03(2)(a), then someone in possession of more than 4 grams of Lortab can be charged under the

Trafficking Statute because Lortab contains a "mixture" of Hydrocodone. What this argument fails to recognize is that the Legislature listed Hydrocodone in two separate schedules for a reason. Hydrocodone is specifically listed as a Schedule III drug in 893.03(3)(c)4, which states:

> "Any material, compound, **mixture**, or preparation containing limited quantities of any of the following controlled substances or salts thereof:............................
> **(4)** Not more than 300 milligrams of Hydrocodone per 100 milliliters or not more than 15 milligrams per dosage unit, with recognized therapeutic amounts of one or more active ingredients which are not controlled substances."

This description of when Hydrocodone is a Schedule III substance encompasses the drug Lortab. Whereas 893.03(3)(c)4 allows up to 15 milligrams of Hydrocodone per dosage unit, Lortab contains only 7.5 milligrams per dosage unit. Furthermore, as highlighted above, the Legislature uses the word, **mixture** in its description. This in itself dismisses the State of Florida's reliance on this word when interpreting 893.135(1)(c)1. Section 893.03(3)(c)4 also uses the language **"any mixture"** in describing Schedule III substances. This further demonstrates the Legislature's attempts to specifically categorize controlled substances. The "any mixture" language of 893.03(2)(a) applies only to Schedule II substances, whereas the "any mixture" language of 893.03(3)(c) applies only to Schedule III substances. Additionally, Lortab does contain a recognized therapeutic amount of Acetaminophen,

which is not a controlled substance. It certainly appears that the Florida state legislature had drugs like Lortab in mind when they worded section 893.03(3)(c)4. Thus, when the legislature drafted 893.135(1)(c)1 and did not specifically call out 893.03(3)(c) along side 893.03(1)(b) and (2)(a), it became rather obvious that they did not want the substances listed in 893.03(3)(c) considered with those prosecutable under the Trafficking Statute. Simply put, the "plain language" of 893.135(1)(c)1 makes no reference to 893.03(3)(c) drugs or mixtures, and the legislative intent should be determined from the "plain language" of the statute. *See* Miele v. Prudential Bache Securities, 656 So.2d 470 (Fla. 1995) and *also see* In Re McCollam, 612 So.2d 572 (Fla. 1993). If the Legislature wanted (3)(c)4 substances, or mixtures containing such substances included in the Trafficking Statute, it would have called them out just as did 893.03(1)(b) and (2)(a).

LEGISLATIVE INTENT AND THE SIMILAR STATUTORY TREATMENT OF CODEINE

Supporting the interpretation that Hydrocodone, in one instance, can be subject to the Trafficking Statute, and in another instance not, is the Legislature's similar treatment of the drug Codeine. Codeine, like Hydrocodone is listed is listed as a Schedule II controlled substance, (893.03(2)(a)). However, Codeine is also listed as a Schedule V controlled substance pursuant to 893.03(5)(a)1, which states,.........

> "A substance, compound, **mixture**, or preparation of a substance in Schedule V has a low potential for abuse… and has a currently accepted medical treatment in the United States… . (1) Not more than 200 milligrams of Codeine per 100 milliters or per 100 grams."

So, in one instance Codeine, like Hydrocodone, is a Schedule II substance that is prosecutable under the Trafficking Statute, and in another it is a Schedule V **mixture** that is not. This result is logical in that 893.03(5), like 893.03(3) is not specifically called out in 893.135(1)(c)1. Again, the State of Florida's reliance on the "any mixture" language of section 893.135(1)(c)1 is misplaced because as in every schedule, the words "any mixture" apply only to that particular schedule.

It makes sense that those in possession of large amounts, (>4 grams), of Codeine or Hydrocodone should be prosecuted under the Trafficking Statute, however the possession of a prescription drug, (as set forth in Schedules III & V), containing minuscule amounts of these substances should not be prosecuted pursuant to 893.135(1)(c)1.

If the logic of the Respondent was adopted, then someone in unlawful possession of prescription cough syrup or night-time formula Tylenol, which contain Codeine could be prosecuted for Trafficking in illegal drugs. If the amount of the cough syrup or night-time Tylenol exceeded 28 grams, then this person would be subject to a twenty-five year mandatory prison sentence. The obvious intent of the Legislature in adopting 893.135 to "stamp

out" large dissemination of Schedule I and II drugs, not to mandate 25 year prison sentences for those in possession of Tylenol 4. This explains why the Legislature would take the time to specifically categorize controlled substances, sometimes basing the categorization on the amount of the particular substance present.

SPECIFIC CLASSIFICATION

> **SCHEDULE II** (893.03(2)) which includes Hydrocodone and Codeine states: "A substance in Schedule II has a **high** potential for abuse and has a currently accepted but **severely** restricted medical use in treatment in the United States and abuse of the substance may lead to **severe** psychological dependence."

> **SCHEDULE III** (893.03(3)) which includes Hydrocodone, states: "A substance in Schedule III has a potential abuse **less** than the substance contained in Schedule I and II and has a currently accepted medical use in treatment in the United States, and abuse may lead to **moderate** or **low** physical dependence or **high** psychological dependence."

> **SCHEDULE V** (893.03(5)) which includes the drug Codeine, states: "A substance, compound, mixture, or preparation of a substance in Schedule V has a **low** potential for abuse relative to the substances in Schedule IV and has a currently accepted medical use in treatment in the United States, and abuse of such compound, mixture or preparation may lead to **limited** physical or psychological dependence relative to the substances in Schedule IV."

The above descriptions demonstrate the Florida State Legislature's attempt to specifically classify controlled substances. They also demonstrate why the same substance,

depending on its quantity, is treated completely different. Basically, the Legislature in plain language has mandated that Hydrocodone is a controlled substance that should be treated in two separate and distinct manners, depending on the amount present. The State of Florida would have the Court disregard the plain language of Florida Statute 893.135(1)(c)1, and "re-include" a controlled substance that is admittedly a 893.03(3) Schedule III substance "exempt" from prosecution for trafficking by virtue of not being specifically called out alongside 893. 03(1)(b) and (2)(a).

LORTAB vs. "STREET DRUGS"

The Fourth District Court of Appeals in determining that the Trafficking Statute is applicable in the case at bar relied on an interpretation of the Federal Sentencing Guidelines in relation to title 21 by the United States Supreme Court. State v. Hayes, 1998 WL 646655 (Fla. App. 4 Dist. 1998). Here, the Fourth DCA notes that the defendant in Chapman v. United States, 500 U.S. 453, 111 S.Ct. 1919, 114 L.Ed.2d 524 (1991) was convicted of selling ten sheets of blotter paper containing 1,000 doses of LSD, calling for a mandatory minimum sentence of five years, due to the fact that aggregate weight of the paper and LSD represented a mixture that was in excess of one gram. Hayes at *2d pg*. Judge Shahood, author of the Fourth DCA's opinion correctly notes that the Chapman court deciphered the meaning of the word mixture, by first consulting dictionaries, due to the fact that

the statute, the sentencing guidelines nor legislative history defined "mixture" or "substance." It was Justice Stevens, in his dissent in Chapman that repeated a quote by the great Learned Hand, who said, in construing a statute "look first to the words of the statute......not to make a fortress out of the dictionary; but to remember that statutes always have some purpose or object to accomplish, whose sympathetic and imaginative discovery is the surest guide to their meaning." Chapman at 474.

In the case at bar, what has not been consulted in deciphering the Trafficking Statute is one's good common sense. To rely on a case that interprets the meaning of "mixture" as it relates to federal sentencing guidelines and the mass distribution of narcotics such as LSD is inappropriate. One can not approach the local drug dealer on his street corner and purchase a bottle of prescription Lortab. The reason Lortab is defined by the Legislature as a Schedule III drug is because there is no empirical evidence that this is a drug abused as is the likes of LSD, cocaine and marijuana. However, the State of Florida argues that it makes good sense to sentence someone in possession of one bottle of Lortab to a mandatory minimum sentence of 25 years, while someone in excess of 10,000 pounds of marijuana or 300 pounds of cocaine will receive only a 15 year mandatory sentence. *See Section 893.135(1)(b)(1)c.* In essence the Respondent's argument will be that friends or family members who share prescription medications, such as Lortab and

prescription cough syrup with codeine, which technically equates to illegal possession, will be prosecutable under the trafficking statute. No evidence has been presented that Lortab is a drug that is commonly diluted for large distribution. To the contrary, Lortab does not contain enough Hydrocodone for dilution. The main component of this prescription is Tylenol.

Justice Stevens quoting Judge Posner in his dissent at the District Court level writes, "A person who sell five doses of LSD on sugar cubes is not a worse person than a manufacturer of 19,999 doses in pure form, but the former is subject to a 10 year mandatory sentence while the latter is not even subject to the five year minimum." Chapman, 908 F.2d at 1333. Thus the same could be said about hydrocodone. A person in possession of .3 grams of hydrocodone as found in forty Lortab pills is no worse a person than the manufacturer of 3.999 pure hydrocodone, but the former is subject to a 25 year mandatory sentence while the latter is not even subject to the trafficking statute. However, again hydrocodone, unlike LSD, cocaine and marijuana, is not a drug that is mass distributed on the streets of America.

Finally, the analysis in Chapman is not applicable to the case at bar and can be distinguished. The Florida Legislature has clearly delineated what Scheduled drugs and mixtures thereof are applicable to the trafficking statute. They are the ones "**as described** in 893.03(1)(b) and 893.03(2)(a)", not those as described in 893.03(3)(c). In Chapman, there was no doubt what

drug the word "mixture" was describing. In the present case, there is obvious confusion. Absent clear legislative intent the trafficking statute should be interpreted by the "plain language" meaning of its words along with the application of common sense, and they dictate that "mixture" as found in 893.135(1)(c)1 describes only Schedule I and II substances.

This Honorable Court should take the opportunity to clarify the intent of the Florida Legislature and the true meaning of "any mixture containing any such substance," and further determine whether or not the unlawful possession of Schedule III and for that matter Schedule V drugs should be prosecutable under s. 893.135(1)(c)1.

CONCLUSION

The Respondent in this case will no doubt claim that the "plain language" of Florida Statute 893.135(1)(c)1 supports the view that a person in possession of an aggregate of .3 grams of Hydrocodone, as found in the drug Lortab, is susceptible to prosecution for trafficking in illegal drugs. The Respondent will make this argument even though it willingly admits that Lortab is a Schedule III controlled substance, pursuant to 893.03(3)(c)4. Looking to s. 893.135(1)(c)1, there is absolutely no mention of 893.03(3)(c)4. The Trafficking Statute only applies to "4 grams or more or any mixture of" the substances found in 893.03(1)(b) or (2)(a). Although Hydrocodone is listed in 893.03(2)(a), it is not treated the same as the Hydrocodone

mixture described in 893.03(3)(c)4. This parallels the treatment of Codeine as described in 893.03(2)(a) compared to the treatment of Codeine as described in 893.03(5). The Holland Court correctly held that when Hydrocodone is found to be a Schedule III controlled substance, then it is the amount per dosage unit that matters, not the aggregate amount of Hydrocodone present in the prescription in applying the Trafficking Statute.

In simple terms, 893.135(1)(c)1, the Trafficking Statute, is applicable only to substances and mixtures found in Schedules I and II, (893.03(1)(b) or (2)(a)). Although, in some cases, the same substances can be found in multiple schedules, they are treated completely different depending on their amounts. This is the only reasonable explanation for why the State Legislature listed them in different schedules to begin with. In essence, Hydrocodone in one instance is a Schedule II controlled substance, and in another it is Schedule III. Thus, Hydrocodone as a Schedule II substance and/or mixture is prosecutable under the Trafficking Statute, whereas when it is classified as Schedule III it is not.

The dismissal of Count I, Trafficking in Hydrocodone should be affirmed.

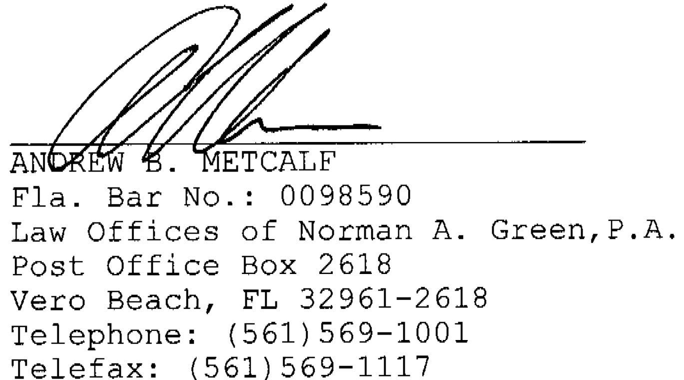
Finally, with due respect, it should be noted, despite the assertions made by Judge Shahood in his preliminary dissertation of the facts, as set forth in the Fourth District Court of Appeals opinion in this case, no finding of fact has ever been

made at the trial level. Only one evidentiary hearing took place and this was a Motion to Dismiss in which there was no factual summation presented. However, in reading the opinion handed down by the Fourth District, Ms. Hayes is identified, not alleged, to have fraudulently phoned in a prescription for 40 tablets of Lorcet, despite the lack of any evidence presented supporting this assertion. To date, no admissions have been made by the Petitioner as to the allegations set forth in the Information filed in this matter.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished to James J. Carney, Assistant Attorney General 1655 Palm Beach Lakes Blvd., West Palm Beach, Florida 33401 and Steven Whittington, Robert Augustus Harper Law Firm, P.A. 325 West Park Avenue, Tallahassee, FL 32301-1413, Honorable Robert Hawley, Indian River County Courthouse, 2000 26th Avenue, Vero Beach, Florida 32960 and Ed Taylor, Office of the State Attorney, Indian River County Courthouse, 2000 16th Avenue, Vero Beach, Florida 32960 via United States mail delivery this the 15th day of February, 1999.

Respectfully Submitted,



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